

Coast Guard, DHS

§ 12.40-13

the date of the last material disciplinary actions report; and

(ii) The annual material disciplinary actions report must be submitted to the Coast Guard on or before the anniversary of the issuance date of the merchant mariner credential.

(2) Conduct a background check each year that the merchant mariner's document is valid to search for any changes that might have occurred since the last employer-conducted background check was performed:

(i) The annual background check must be conducted to the satisfaction of the Coast Guard in accordance with the same criteria set forth in paragraph (a)(2) of this section, except that the period of time examined during the annual background check need only extend back to the date of the last background check; and

(ii) All information derived from the annual background check must be submitted to the Coast Guard on or before the anniversary of the issuance date of the merchant mariner credential.

(f) The employer is subject to the civil penalty provisions specified in 46 U.S.C. 8103(f) for any violation of this section.

§ 12.40-9 Basis for denial.

In addition to the requirements for a merchant mariner credential established elsewhere in this subchapter, and the basis for denial established in §§ 10.209, 10.211, and 10.213 of this subchapter, an applicant for a merchant mariner credential issued pursuant to this subpart must:

(a) Have been employed, for a period of at least one year, on a foreign flag passenger vessel(s) that is/are under the same common ownership or control as the U.S. flag large passenger vessel(s) on which the applicant will be employed upon issuance of a merchant mariner credential under this subpart.

(b) Have no record of material disciplinary actions during the employment required under paragraph (a) of this section, as verified in writing by the owner or managing operator of the U.S. flag large passenger vessel(s), on which the applicant will be employed.

(c) Have successfully completed an employer-conducted background check,

to the satisfaction of both the employer and the Coast Guard.

(d) Meet the citizenship and identity requirements of § 12.40-11 of this subpart.

§ 12.40-11 Citizenship and identity.

(a) In lieu of the requirements of § 10.221 of this subchapter, a non-resident alien may apply for a Coast Guard-issued merchant mariner credential, endorsed and valid only for service in the steward's department of a U.S. flag large passenger vessel as defined in this subpart, if he or she is authorized for employment under the immigration laws of the United States, including an alien crewman described in section 101(a)(15)(D)(i) of that Act.

(b) To meet the citizenship and identity requirements of this subpart, an applicant must present an unexpired passport issued by the government of the country of which the applicant is a citizen or subject; and either a valid U.S. C-1 or D visa or other valid evidence of employment authorization in the United States deemed acceptable by the Coast Guard.

(c) Any non-resident alien applying for a merchant mariner credential under this subpart may not be a citizen of, or a temporary or permanent resident of, a country designated by the Department of State as a "State Sponsor of Terrorism" pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

§ 12.40-13 Restrictions.

(a) A merchant mariner credential issued to a non-resident alien under this subpart authorizes service only in the steward's department of the U.S. flag large passenger vessel(s), that is/are under the same common ownership and control as the foreign flag passenger vessel(s), on which the non-resident alien served to meet the requirements of § 12.40-9(a) of this subpart:

(1) The merchant mariner credential will be endorsed for service in the steward's department in accordance with § 12.25-10 of this part;

(2) The merchant mariner credential may also be endorsed for service as a food handler if the applicant meets the